

109TH CONGRESS
2D SESSION

S.

To improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Credit Rating Agency
5 Reform Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Upon the basis of facts disclosed by the record and
8 report of the Securities and Exchange Commission made

1 pursuant to section 702 of the Sarbanes-Oxley Act of
2 2002 (116 Stat. 797), hearings before the Committee on
3 Banking, Housing, and Urban Affairs of the Senate and
4 the Committee on Financial Services of the House of Rep-
5 resentatives during the 108th and 109th Congresses, com-
6 ment letters to the concept releases and proposed rules
7 of the Securities and Exchange Commission, and facts
8 otherwise disclosed and ascertained, Congress finds that
9 credit rating agencies are of national importance, in that,
10 among other things—

11 (1) their ratings, publications, writings, anal-
12 yses, and reports are furnished and distributed, and
13 their contracts, subscription agreements, and other
14 arrangements with clients are negotiated and per-
15 formed, by the use of the mails and means and in-
16 strumentalities of interstate commerce;

17 (2) their ratings, publications, writings, anal-
18 yses, and reports customarily relate to the purchase
19 and sale of securities traded on securities exchanges
20 and in interstate over-the-counter markets, securities
21 issued by companies engaged in business in inter-
22 state commerce, and securities issued by national
23 banks and member banks of the Federal Reserve
24 System;

1 (3) the foregoing transactions occur in such vol-
2 ume as substantially to affect interstate commerce,
3 and securities markets, the national banking system,
4 and the national economy;

5 (4) the oversight of such credit rating agencies
6 serves the compelling interest of investor protection;

7 (5) the 2 largest credit rating agencies serve
8 the vast majority of the market, and additional com-
9 petition is in the public interest; and

10 (6) the Commission has indicated that it needs
11 statutory authority to oversee the credit rating in-
12 dustry.

13 **SEC. 3. DEFINITIONS.**

14 Section 3(a) of the Securities Exchange Act of 1934
15 (15 U.S.C. 78c(a)) is amended by adding at the end the
16 following new paragraphs:

17 “(60) CREDIT RATING.—The term ‘credit rat-
18 ing’ means an assessment of the creditworthiness of
19 an obligor as an entity or with respect to specific se-
20 curities or money market instruments.

21 “(61) CREDIT RATING AGENCY.—The term
22 ‘credit rating agency’ means any person—

23 “(A) engaged in the business of issuing
24 credit ratings on the Internet or through an-
25 other readily accessible means, for free or for a

1 reasonable fee, but does not include a commer-
2 cial credit reporting company;

3 “(B) employing either a quantitative or
4 qualitative model, or both, to determine credit
5 ratings; and

6 “(C) receiving fees from either issuers, in-
7 vestors, or other market participants, or a com-
8 bination thereof.

9 “(62) NATIONALLY RECOGNIZED STATISTICAL
10 RATING ORGANIZATION.—The term ‘nationally rec-
11 ognized statistical rating organization’ means a cred-
12 it rating agency that—

13 “(A) has been in business as a credit rat-
14 ing agency for at least the 3 consecutive years
15 immediately preceding the date of its applica-
16 tion for registration under section 15E;

17 “(B) issues credit ratings certified by
18 qualified institutional buyers, in accordance
19 with section 15E(a)(1)(B)(ix), with respect to—

20 “(i) financial institutions, brokers, or
21 dealers;

22 “(ii) insurance companies;

23 “(iii) corporate issuers;

24 “(iv) issuers of asset-backed securities
25 (as that term is defined in section 1101(c)

1 of part 229 of title 17, Code of Federal
2 Regulations, as in effect on the date of en-
3 actment of this paragraph);

4 “(v) issuers of government securities
5 or municipal securities; or

6 “(vi) a combination of one or more
7 categories of obligors described in any of
8 clauses (i) through (v); and

9 “(C) is registered under section 15E.

10 “(63) PERSON ASSOCIATED WITH A NATION-
11 ALLY RECOGNIZED STATISTICAL RATING ORGANIZA-
12 TION.—The term ‘person associated with’ a nation-
13 ally recognized statistical rating organization means
14 any partner, officer, director, or branch manager of
15 a nationally recognized statistical rating organiza-
16 tion (or any person occupying a similar status or
17 performing similar functions), any person directly or
18 indirectly controlling, controlled by, or under com-
19 mon control with a nationally recognized statistical
20 rating organization, or any employee of a nationally
21 recognized statistical rating organization.

22 “(64) QUALIFIED INSTITUTIONAL BUYER.—The
23 term ‘qualified institutional buyer’ has the meaning
24 given such term in section 230.144A(a) of title 17,

1 Code of Federal Regulations, or any successor there-
2 to.”.

3 **SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STA-**
4 **TISTICAL RATING ORGANIZATIONS.**

5 (a) AMENDMENT.—The Securities Exchange Act of
6 1934 is amended by inserting after section 15D (15
7 U.S.C. 78o–6) the following new section:

8 **“SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED**
9 **STATISTICAL RATING ORGANIZATIONS.**

10 “(a) REGISTRATION PROCEDURES.—

11 “(1) APPLICATION FOR REGISTRATION.—

12 “(A) IN GENERAL.—A credit rating agency
13 that elects to be treated as a nationally recog-
14 nized statistical rating organization for pur-
15 poses of this title (in this section referred to as
16 the ‘applicant’), shall furnish to the Commis-
17 sion an application for registration, in such
18 form as the Commission shall require, by rule
19 or regulation issued in accordance with sub-
20 section (n), and containing the information de-
21 scribed in subparagraph (B).

22 “(B) REQUIRED INFORMATION.—An appli-
23 cation for registration under this section shall
24 contain information regarding—

1 “(i) credit ratings performance meas-
2 urement statistics over short-term, mid-
3 term, and long-term periods (as applicable)
4 of the applicant;

5 “(ii) the procedures and methodolo-
6 gies that the applicant uses in determining
7 credit ratings;

8 “(iii) policies or procedures adopted
9 and implemented by the applicant to pre-
10 vent the misuse in violation of this title (or
11 the rules and regulations hereunder) of
12 material, nonpublic information;

13 “(iv) the organizational structure of
14 the applicant;

15 “(v) whether or not the applicant has
16 in effect a code of ethics, and if not, the
17 reasons therefor;

18 “(vi) any conflict of interest relating
19 to the issuance of credit ratings by the ap-
20 plicant;

21 “(vii) the categories described in any
22 of clauses (i) through (v) of section
23 3(a)(62)(B) with respect to which the ap-
24 plicant intends to apply for registration
25 under this section;

1 “(viii) on a confidential basis, a list of
2 the 20 largest issuers and subscribers that
3 use the credit rating services of the appli-
4 cant, by amount of net revenues received
5 therefrom in the fiscal year immediately
6 preceding the date of submission of the ap-
7 plication;

8 “(ix) on a confidential basis, as to
9 each applicable category of obligor de-
10 scribed in any of clauses (i) through (v) of
11 section 3(a)(62)(B), written certifications
12 described in subparagraph (C); and

13 “(x) any other information and docu-
14 ments concerning the applicant and any
15 person associated with such applicant as
16 the Commission, by rule, may prescribe as
17 necessary or appropriate in the public in-
18 terest or for the protection of investors.

19 “(C) WRITTEN CERTIFICATIONS.—Written
20 certifications required by subparagraph
21 (B)(ix)—

22 “(i) shall be provided from not fewer
23 than 10 qualified institutional buyers, none
24 of which is affiliated with the applicant;

1 “(ii) may address more than one cat-
2 egory of obligors described in any of
3 clauses (i) through (v) of section
4 3(a)(62)(B);

5 “(iii) shall include not fewer than 2
6 certifications for each such category of ob-
7 ligor; and

8 “(iv) shall state that the qualified in-
9 stitutional buyer—

10 “(I) meets the definition of a
11 qualified institutional buyer under
12 section 3(a)(64); and

13 “(II) has used the credit ratings
14 of the applicant for at least the 3
15 years immediately preceding the date
16 of the certification in the subject cat-
17 egory or categories of obligors.

18 “(D) LIMITATION ON LIABILITY OF QUALI-
19 FIED INSTITUTIONAL BUYERS.—No qualified
20 institutional buyer shall be liable in any private
21 right of action for any opinion or statement ex-
22 pressed in a certification made pursuant to sub-
23 paragraph (B)(ix).

24 “(2) REVIEW OF APPLICATION.—

“(A) INITIAL DETERMINATION.—Not later than 90 days after the date on which the application for registration is furnished to the Commission under paragraph (1) (or within such longer period as to which the applicant consents) the Commission shall—

“(i) by order, grant such registration for ratings in the subject category or categories of obligors, as described in clauses (i) through (v) of section 3(a)(62)(B); or

“(ii) institute proceedings to determine whether registration should be denied.

“(B) CONDUCT OF PROCEEDINGS.—

“(i) **CONTENT.**—Proceedings referred to in subparagraph (A)(ii) shall include notice of the grounds for denial under consideration and opportunity for hearing, and shall be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission under paragraph (1).

“(ii) DETERMINATION.—At the conclusion of such proceedings, the Commis-

1 sion, by order, shall grant or deny such ap-
2 plication for registration.

“(iii) EXTENSION AUTHORIZED.—The Commission may extend the time for conclusion of such proceedings for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.

10 “(C) GROUNDS FOR DECISION.—The Com-
11 mission shall grant registration under this sub-
12 section—

13 “(i) if the Commission finds that the
14 requirements of this section are satisfied;
15 and

“(ii) unless the Commission finds (in
which case the Commission shall deny such
registration) that—

“(I) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under para-

1 graph (1)(B) and with subsections
2 (g), (h), (i), and (j); or
3 “(II) if the applicant were so reg-
4 istered, its registration would be sub-
5 ject to suspension or revocation under
6 subsection (d).

7 “(3) PUBLIC AVAILABILITY OF INFORMATION.—
8 Subject to section 24, the Commission shall, by rule,
9 require a nationally recognized statistical rating or-
10 ganization, upon the granting of registration under
11 this section, to make the information and documents
12 submitted to the Commission in its completed appli-
13 cation for registration, or in any amendment sub-
14 mitted under paragraph (1) or (2) of subsection (b),
15 publicly available on its website, or through another
16 comparable, readily accessible means, except as pro-
17 vided in clauses (viii) and (ix) of paragraph (1)(B).

18 “(b) UPDATE OF REGISTRATION.—

19 “(1) UPDATE.—Each nationally recognized sta-
20 tistical rating organization shall promptly amend its
21 application for registration under this section if any
22 information or document provided therein becomes
23 materially inaccurate, except that a nationally recog-
24 nized statistical rating organization is not required
25 to amend—

1 “(A) the information required to be fur-
2 nished under subsection (a)(1)(B)(i) by fur-
3 nishing information under this paragraph, but
4 shall amend such information in the annual
5 submission of the organization under paragraph
6 (2) of this subsection; or

7 “(B) the certifications required to be pro-
8 vided under subsection (a)(1)(B)(ix) by fur-
9 nishing information under this paragraph.

10 “(2) CERTIFICATION.—Not later than 90 days
11 after the end of each calendar year, each nationally
12 recognized statistical rating organization shall fur-
13 nish to the Commission an amendment to its reg-
14 istration, in such form as the Commission, by rule,
15 may prescribe as necessary or appropriate in the
16 public interest or for the protection of investors—

17 “(A) certifying that the information and
18 documents in the application for registration of
19 such nationally recognized statistical rating or-
20 ganization (other than the certifications re-
21 quired under subsection (a)(1)(B)(ix)) continue
22 to be accurate; and

23 “(B) listing any material change that oc-
24 curred to such information or documents during
25 the previous calendar year.

1 “(c) ACCOUNTABILITY FOR RATINGS PROCE-
2 DURES.—

3 “(1) AUTHORITY.—The Commission shall have
4 the authority to enforce the provisions of this section
5 in accordance with this title with respect to any na-
6 tionally recognized statistical rating organization, if
7 such nationally recognized statistical rating organi-
8 zation issues credit ratings in material contravention
9 of those procedures, criteria, and methodologies that
10 such nationally recognized statistical rating organi-
11 zation—

12 “(A) includes in its application for reg-
13 istration under subsection (a)(1)(B)(ii); or

14 “(B) makes and disseminates in reports
15 pursuant to section 17(a) or the rules and regu-
16 lations thereunder.

17 “(2) LIMITATION.—The rules and regulations
18 that the Commission may prescribe pursuant to this
19 title, as they apply to nationally recognized statis-
20 tical rating organizations, shall be narrowly tailored
21 to meet the requirements of this title applicable to
22 nationally recognized statistical rating organizations,
23 and shall not purport to regulate the substance of
24 credit ratings or the procedures and methodologies

1 by which such nationally recognized statistical rating
2 organizations determine credit ratings.

3 “(d) CENSURE, DENIAL, OR SUSPENSION OF REG-
4 ISTRATION; NOTICE AND HEARING.—The Commission, by
5 order, shall censure, place limitations on the activities,
6 functions, or operations of, suspend for a period not ex-
7 ceeding 12 months, or revoke the registration of any na-
8 tionally recognized statistical rating organization if the
9 Commission finds, on the record after notice and oppor-
10 tunity for hearing, that such censure, placing of limita-
11 tions, suspension, or revocation is necessary for the protec-
12 tion of investors and in the public interest and that such
13 nationally recognized statistical rating organization, or
14 any person associated with such an organization, whether
15 prior to or subsequent to becoming so associated—

16 “(1) has committed or omitted any act, or is
17 subject to an order or finding, enumerated in sub-
18 paragraph (A), (D), (E), (H), or (G) of section
19 15(b)(4), has been convicted of any offense specified
20 in section 15(b)(4)(B), or is enjoined from any ac-
21 tion, conduct, or practice specified in subparagraph
22 (C) of section 15(b)(4), during the 10-year period
23 preceding the date of commencement of the pro-
24 ceedings under this subsection, or at any time there-
25 after;

1 “(2) has been convicted during the 10-year pe-
2 riod preceding the date on which an application for
3 registration is furnished to the Commission under
4 this section, or at any time thereafter, of—

5 “(A) any crime that is punishable by im-
6 prisonment for 1 or more years, and that is not
7 described in section 15(b)(4)(B); or

8 “(B) a substantially equivalent crime by a
9 foreign court of competent jurisdiction;

10 “(3) is subject to any order of the Commission
11 barring or suspending the right of the person to be
12 associated with a nationally recognized statistical
13 rating organization; or

14 “(4) fails to file the certifications required
15 under subsection (b)(2) or fails to maintain ade-
16 quate financial and managerial resources to consist-
17 ently produce credit ratings with integrity.

18 “(e) TERMINATION OF REGISTRATION.—

19 “(1) VOLUNTARY WITHDRAWAL.—A nationally
20 recognized statistical rating organization registered
21 under this section may, upon such terms and condi-
22 tions as the Commission may establish as necessary
23 in the public interest or for the protection of inves-
24 tors, withdraw from registration by furnishing a
25 written notice of withdrawal to the Commission.

1 “(2) COMMISSION AUTHORITY.—In addition to
2 any other authority of the Commission under this
3 title, if the Commission finds that a nationally rec-
4 ognized statistical rating organization is no longer in
5 existence or has ceased to do business as a credit
6 rating agency, the Commission, by order, shall can-
7 cel the registration under this section of such na-
8 tionally recognized statistical rating organization.

9 “(f) REPRESENTATIONS.—

10 “(1) BAN ON REPRESENTATIONS OF SPONSOR-
11 SHIP BY UNITED STATES OR AGENCY THEREOF.—It
12 shall be unlawful for any nationally recognized sta-
13 tistical rating organization registered under this sec-
14 tion to represent or imply in any manner whatsoever
15 that such nationally recognized statistical rating or-
16 ganization has been designated, sponsored, rec-
17 ommended, or approved, or that the abilities or
18 qualifications thereof have in any respect been
19 passed upon, by the United States or any agency, of-
20 ficer, or employee thereof.

21 “(2) BAN ON REPRESENTATION AS NRSRO OF
22 UNREGISTERED CREDIT RATING AGENCIES.—It shall
23 be unlawful for any credit rating agency that is not
24 registered under this section as a nationally recog-
25 nized statistical rating organization to state that

1 such credit rating agency is a nationally recognized
2 statistical rating organization registered under this
3 title.

4 “(3) STATEMENT OF REGISTRATION UNDER SE-
5 CURITIES EXCHANGE ACT OF 1934 PROVISIONS.—No
6 provision of paragraph (1) shall be construed to pro-
7 hibit a statement that a nationally recognized statis-
8 tical rating organization is a nationally recognized
9 statistical rating organization under this title, if
10 such statement is true in fact and if the effect of
11 such registration is not misrepresented.

12 “(g) PREVENTION OF MISUSE OF NONPUBLIC IN-
13 FORMATION.—

14 “(1) ORGANIZATION POLICIES AND PROCE-
15 DURES.—Each nationally recognized statistical rat-
16 ing organization shall establish, maintain, and en-
17 force written policies and procedures reasonably de-
18 signed, taking into consideration the nature of the
19 business of such nationally recognized statistical rat-
20 ing organization, to prevent the misuse in violation
21 of this title, or the rules or regulations hereunder,
22 of material, nonpublic information by such nationally
23 recognized statistical rating organization or any per-
24 son associated with such nationally recognized statis-
25 tical rating organization.

1 “(2) COMMISSION AUTHORITY.—The Commis-
2 sion shall issue final rules in accordance with sub-
3 section (n) to require specific policies or procedures
4 that are reasonably designed to prevent misuse in
5 violation of this title (or the rules or regulations
6 hereunder) of material, nonpublic information.

7 “(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

8 “(1) ORGANIZATION POLICIES AND PROCE-
9 DURES.—Each nationally recognized statistical rat-
10 ing organization shall establish, maintain, and en-
11 force written policies and procedures reasonably de-
12 signed, taking into consideration the nature of the
13 business of such nationally recognized statistical rat-
14 ing organization and affiliated persons and affiliated
15 companies of such nationally recognized statistical
16 rating organization, to address and manage any con-
17 flicts of interest that can arise from such business.

18 “(2) COMMISSION AUTHORITY.—The Commis-
19 sion shall issue final rules in accordance with sub-
20 section (n) to prohibit, or require the management
21 and disclosure of, any conflicts of interest relating to
22 the issuance of credit ratings by a nationally recog-
23 nized statistical rating organization, including, with-
24 out limitation, conflicts of interest relating to—

1 “(A) the manner in which a nationally rec-
2 cognized statistical rating organization is com-
3 pensated by the obligor, or any affiliate of the
4 obligor, for issuing credit ratings or providing
5 related services;

6 “(B) the provision of consulting, advisory,
7 or other services by a nationally recognized sta-
8 tistical rating organization, or any person asso-
9 ciated with such nationally recognized statistical
10 rating organization, to the obligor, or any affil-
11 iate of the obligor;

12 “(C) business relationships, ownership in-
13 terests, or any other financial or personal inter-
14 ests between a nationally recognized statistical
15 rating organization, or any person associated
16 with such nationally recognized statistical rat-
17 ing organization, and the obligor, or any affil-
18 iate of the obligor;

19 “(D) any affiliation of a nationally recog-
20 nized statistical rating organization, or any per-
21 son associated with such nationally recognized
22 statistical rating organization, with any person
23 that underwrites the securities or money market
24 instruments that are the subject of a credit rat-
25 ing; and

1 “(E) any other potential conflict of inter-
2 est, as the Commission deems necessary or ap-
3 propriate in the public interest or for the pro-
4 tection of investors.

5 “(i) PROHIBITED CONDUCT.—

6 “(1) PROHIBITED ACTS AND PRACTICES.—The
7 Commission shall issue final rules in accordance
8 with subsection (n) to prohibit any act or practice
9 relating to the issuance of credit ratings by a nation-
10 ally recognized statistical rating organization that
11 the Commission determines to be unfair, coercive, or
12 abusive, including any act or practice relating to—

13 “(A) conditioning or threatening to condi-
14 tion the issuance of a credit rating on the pur-
15 chase by the obligor or an affiliate thereof of
16 other services or products, including pre-credit
17 rating assessment products, of the nationally
18 recognized statistical rating organization or any
19 person associated with such nationally recog-
20 nized statistical rating organization;

21 “(B) lowering or threatening to lower a
22 credit rating on, or refusing to rate, securities
23 or money market instruments issued by an
24 asset pool or as part of any asset-backed or
25 mortgage-backed securities transaction, unless a

1 portion of the assets within such pool or part
2 of such transaction, as applicable, also is rated
3 by the nationally recognized statistical rating
4 organization; or

5 “(C) modifying or threatening to modify a
6 credit rating or otherwise departing from its
7 adopted systematic procedures and methodolo-
8 gies in determining credit ratings, based on
9 whether the obligor, or an affiliate of the obli-
10 gor, purchases or will purchase the credit rating
11 or any other services or products of the nation-
12 ally recognized statistical rating organization or
13 any person associated with such organization.

14 “(2) RULE OF CONSTRUCTION.—Nothing in
15 paragraph (1), or in any rules or regulations adopt-
16 ed thereunder, shall be construed to modify, impair,
17 or supersede the operation of any of the antitrust
18 laws (as defined in the first section of the Clayton
19 Act, except that such term includes section 5 of the
20 Federal Trade Commission Act, to the extent that
21 such section 5 applies to unfair methods of competi-
22 tion).

23 “(j) DESIGNATION OF COMPLIANCE OFFICER.—Each
24 nationally recognized statistical rating organization shall
25 designate an individual responsible for administering the

1 policies and procedures that are required to be established
2 pursuant to subsections (g) and (h), and for ensuring com-
3 pliance with the securities laws and the rules and regula-
4 tions thereunder, including those promulgated by the
5 Commission pursuant to this section.

6 “(k) STATEMENTS OF FINANCIAL CONDITION.—
7 Each nationally recognized statistical rating organization
8 shall, on a confidential basis, furnish to the Commission,
9 at intervals determined by the Commission, such financial
10 statements, certified (if required by the rules or regula-
11 tions of the Commission) by an independent public ac-
12 countant, and information concerning its financial condi-
13 tion, as the Commission, by rule, may prescribe as nec-
14 essary or appropriate in the public interest or for the pro-
15 tection of investors.

16 “(l) SOLE METHOD OF REGISTRATION.—

17 “(1) IN GENERAL.—Upon the effective date of
18 this section, a credit rating agency may only be reg-
19 istered as a nationally recognized statistical rating
20 organization for any purpose in accordance with this
21 section.

22 “(2) PROHIBITION ON RELIANCE ON NO-ACTION
23 RELIEF.—Beginning on the effective date of this
24 section—

1 “(A) an entity that before that date re-
2 ceived advice, approval, or a no-action letter
3 from the Commission or staff thereof to be
4 treated as a nationally recognized statistical
5 rating organization pursuant to the Commission
6 rule at section 240.15c3-1 of title 17, Code of
7 Federal Regulations, may represent itself or act
8 as a nationally recognized statistical rating or-
9 ganization only—

10 “(i) if such entity has filed an applica-
11 tion for registration under this section,
12 during Commission consideration of the
13 application; and

14 “(ii) on and after approval of its ap-
15 plication for registration under this sec-
16 tion; and

17 “(B) the advice, approval, or no-action let-
18 ter described in subparagraph (A) shall be void.

19 “(3) NOTICE TO OTHER AGENCIES.—Not later
20 than 30 days after the date of enactment of this sec-
21 tion, the Commission shall give notice of the actions
22 undertaken pursuant to this section to each Federal
23 agency which employs in its rules and regulations
24 the term ‘nationally recognized statistical rating or-
25 ganization’ (as that term is used under Commission

1 rule 15c3–1 (17 C.F.R. 240.15c3–1), as in effect on
2 the date of enactment of this section).

3 “(m) RULES OF CONSTRUCTION.—

4 “(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR
5 DEFENSES.—Registration under this section does
6 not constitute a waiver of any right, privilege, or de-
7 fense that a nationally recognized statistical rating
8 organization may otherwise have under any provision
9 of State or Federal law, including any rule, regula-
10 tion, or order thereunder.

11 “(2) NO PRIVATE RIGHT OF ACTION.—Nothing
12 in this section may be construed as creating any pri-
13 vate right of action, and no report furnished by a
14 nationally recognized statistical rating organization
15 in accordance with this section or section 17 shall
16 create a private right of action under section 18 or
17 any other provision of law.

18 “(n) REGULATIONS.—

19 “(1) NEW PROVISIONS.—Such rules and regula-
20 tions as are required by this section or are otherwise
21 necessary to carry out this section, including the ap-
22 plication form required under subsection (a)—

23 “(A) shall be issued by the Commission in
24 final form, not later than 270 days after the
25 date of enactment of this section; and

1 “(B) shall become effective not later than
2 270 days after the date of enactment of this
3 section.

4 “(2) REVIEW OF EXISTING REGULATIONS.—Not
5 later than 270 days after the date of enactment of
6 this section, the Commission shall—

7 “(A) review its existing rules and regula-
8 tions which employ the term ‘nationally recog-
9 nized statistical rating organization’ or
10 ‘NRSRO’; and

11 “(B) amend or revise such rules and regula-
12 tions in accordance with the purposes of this
13 section, as the Commission may prescribe as
14 necessary or appropriate in the public interest
15 or for the protection of investors.

16 “(c) EFFECTIVE DATE.—This section shall become
17 effective on the earlier of—

18 “(1) the date on which regulations are issued in
19 final form under subsection (n)(1); or

20 “(2) 270 days after the date of enactment of
21 this section.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) SECURITIES EXCHANGE ACT OF 1934.—The
24 Securities Exchange Act of 1934 (15 U.S.C. 78 et
25 seq.) is amended—

1 (A) in section 15(b)(4)(B)(ii) (15 U.S.C.
2 78o(b)(4)(B)(ii)), by inserting “nationally rec-
3 ognized statistical rating organization,” after
4 “transfer agent,”;

5 (B) in section 15(b)(4)(C) (15 U.S.C.
6 78o(b)(4)(C)), by inserting “nationally recog-
7 nized statistical rating organization,” after
8 “transfer agent,”; and

9 (C) in section 21B(a) (15 U.S.C. 78u-
10 2(a)), by inserting “15E,” after “15C,”.

11 (2) INVESTMENT COMPANY ACT OF 1940.—The
12 Investment Company Act of 1940 (15 U.S.C. 80a et
13 seq.) is amended—

14 (A) in section 2(a) (15 U.S.C. 80a-2(a)),
15 by adding at the end the following new para-
16 graph:

17 “(53) The term ‘credit rating agency’ has the
18 same meaning as in section 3 of the Securities Ex-
19 change Act of 1934.”;

20 (B) in section 9(a)(1) (15 U.S.C. 80a-
21 9(a)), by inserting “credit rating agency,” after
22 “transfer agent,”; and

23 (C) in section 9(a)(2) (15 U.S.C. 80a-
24 9(a)), by inserting “credit rating agency,” after
25 “transfer agent,”.

1 (3) INVESTMENT ADVISERS ACT OF 1940.—The
2 Investment Advisers Act of 1940 (15 U.S.C. 80b et
3 seq.) is amended—

4 (A) in section 202(a) (15 U.S.C. 80b–
5 2(a)), by adding at the end the following new
6 paragraph:

7 “(28) The term ‘credit rating agency’ has the
8 same meaning as in section 3 of the Securities Ex-
9 change Act of 1934.”;

10 (B) in section 203(e)(2)(B) (15 U.S.C.
11 80b–3(e)), by inserting “credit rating agency,”
12 after “transfer agent,”; and

13 (C) in section 203(e)(4) (15 U.S.C. 80b–
14 3(e)), by inserting “credit rating agency,” after
15 “transfer agent,”.

16 (4) HOUSING AND COMMUNITY DEVELOPMENT
17 ACT OF 1992.—Section 1319 of the Housing and
18 Community Development Act of 1992 (12 U.S.C.
19 4519) is amended by striking “effectively” and all
20 that follows through “broker-dealers” and inserting
21 “that is a nationally recognized statistical rating or-
22 ganization, as such term is defined in section 3(a)
23 of the Securities Exchange Act of 1934”.

24 (5) HIGHER EDUCATION ACT OF 1965.—Section
25 439(r)(15)(A) of the Higher Education Act of 1965

1 (20 U.S.C. 1087–2(r)(15)(A)) is amended by strik-
2 ing “means any entity recognized as such by the Se-
3 curities and Exchange Commission” and inserting
4 “means any nationally recognized statistical rating
5 organization, as that term is defined in section 3(a)
6 of the Securities Exchange Act of 1934”.

7 (6) TITLE 23.—Section 181(11) of title 23,
8 United States Code, is amended by striking “identi-
9 fied by the Securities and Exchange Commission as
10 a nationally recognized statistical rating organiza-
11 tion” and inserting “registered with the Securities
12 and Exchange Commission as a nationally recog-
13 nized statistical rating organization, as that term is
14 defined in section 3(a) of the Securities Exchange
15 Act of 1934”.

16 **SEC. 5. ANNUAL AND OTHER REPORTS.**

17 Section 17(a)(1) of the Securities Exchange Act of
18 1934 (15 U.S.C. 78q(a)(1)) is amended—

19 (1) by inserting “nationally recognized statis-
20 tical rating organization,” after “registered transfer
21 agent,”; and

22 (2) by adding at the end the following: “Any re-
23 port that a nationally recognized statistical rating
24 organization is required by Commission rules under
25 this paragraph to make and disseminate to the Com-

1 mission shall be deemed furnished to the Commis-
2 sion.”.

3 **SEC. 6. COMMISSION ANNUAL REPORT.**

4 The Commission shall submit an annual report to the
5 Committee on Banking, Housing, and Urban Affairs of
6 the Senate and the Committee on Financial Services of
7 the House of Representatives that, with respect to the
8 year to which the report relates—

9 (1) identifies applicants for registration under
10 section 15E of the Securities Exchange Act of 1934,
11 as added by this Act;

12 (2) specifies the number of and actions taken
13 on such applications; and

14 (3) specifies the views of the Commission on the
15 state of competition, transparency, and conflicts of
16 interest among nationally recognized statistical rat-
17 ing organizations.

18 **SEC. 7. GAO STUDY AND REPORT REGARDING NATIONALLY**
19 **RECOGNIZED STATISTICAL RATING ORGANI-**
20 **ZATIONS.**

21 (a) STUDY REQUIRED.—The Comptroller General of
22 the United States shall conduct a study—

23 (1) to determine the impact of this Act and the
24 amendments made by this Act on—

1 (A) the quality of credit ratings issued by
2 nationally recognized statistical ratings organi-
3 zations;

4 (B) the financial markets;

5 (C) competition among credit rating agen-
6 cies;

7 (D) the incidence of inappropriate conflicts
8 of interest and sales practices by nationally rec-
9 ognized statistical rating organizations;

10 (E) the process for registering as a nation-
11 ally recognized statistical rating organization;
12 and

13 (F) such other matters relevant to the im-
14 plementation of this Act and the amendments
15 made by this Act, as the Comptroller General
16 deems necessary to bring to the attention of the
17 Congress;

18 (2) to identify problems, if any, that have re-
19 sulted from the implementation of this Act and the
20 amendments made by this Act; and

21 (3) to recommend solutions, including any legis-
22 lative or regulatory solutions, to any problems iden-
23 tified under paragraphs (1) and (2).

24 (b) REPORT REQUIRED.—Not earlier than 3 years
25 nor later than 4 years after the date of enactment of this

1 Act, the Comptroller General shall submit a report on the
2 results of the study required by this section to the Com-
3 mittee on Banking, Housing, and Urban Affairs of the
4 Senate and the Committee on Financial Services of the
5 House of Representatives.

6 **SEC. 8. EFFECTIVE DATE.**

7 This Act and the amendments made by this Act shall
8 become effective on the date determined under section
9 15E(o) of the Securities Exchange Act of 1934, as added
10 by this Act.